IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.2385 OF 2003

Sidappa Padmanna Berad : Petitioner
(Orig.Applicant)

V/s.

Buranuddin Siraj Patil, since
deceased through legal heirs:
a) Shri Mohammad Gaus Buranuddin
Patil & Ors. : Respondents
(Orig. Opponents)

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Mr.T.S.Ingle for the petitioner.

Mr.N.J.Patil for respondent no.1(b).

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CORAM : S.A. BOBDE, J.
January 17, 2005.

P.C.:

1. The petitioner, a former Sanadi Inamdar, has challenged the appellate order of Special Land Acquisition Officer No.5, Kolhapur, dated 11.6.1984. By the impugned order, the appellate Court has set aside the order of the lower Court and remanded the matter to the lower Court for fixing price for purchase of the land by the respondent

under section 32H of the Bombay Tenancy and Agricultural Lands Act, 1948, hereinafter referred to as the "Act".

2. Mr.Ingle, learned counsel for the petitioner, contended that the respondent is not entitled to be treated as a tenant and there is no relationship of tenant and landlord between the respondent and the petitioner. It is, however, clear that the lands in question were resumed from the petitioner and granted to the respondent. In the inquiry before the Special Tahsildar, the petitioner remained absent. In that inquiry, it was held that the respondent was tenant of the suit land by an order dated 1.4.1957. The order of the Special Tahsildar, Shirol, dated 30.9.1972 under section 32IB of the Act attained finality and the petitioner did not challenge it by filing an appeal. Further in Tenancy Case no.12/71, the Tenancy Aval Karkoon, Shirol, has rendered a clear finding that the respondent is a tenant of the suit land in a reference made by the Civil Court. The petitioner has not filed any appeal against that order in Case no.12/71 either.

3. It appears that before the appellate Court, the petitioner argued that the respondent has not given notice under section 32F(1A) of the Act. This section is clearly

not applicable since the petitioner is not a person under disability.

4. Having regard to the above circumstances, the revenue authorities have taken the land which was earlier held as a sanadi inam land which has now turned full rayatava and, therefore, under section 88, once the land is turned rayatava, the aforesaid provisions of the Act apply and the tenant gets a clear right to purchase the land.

5. In these circumstances, I see no error of law apparent on the face of the record which warrants interference with the appellate order. The Writ Petition is, therefore, dismissed.

Sd/-

S.A. BOBDE, J.